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05 JAN 2007

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In re Application of
RALF DEVANT (Deceased)
Application No.: 10/574,963
PCT No.: PCT/EP04/10399
Int. Filing Date: 16 September 2004
Priority Date: 16 October 2003
Attorney Docket no.: MERCK-3154
For: PROCESS FOR THE PREPARATION OF
ENANTIOMERICALLY PURE, 2-SUBSTITUTED
CHROMAN DERIVATIVES

DECISION ON
REQUEST
UNDER 37 CFR 1.42

This is a decision on applicant's declaration filed in the United States Patent and Trademark Office (USPTO) on 07 April 2006 treated as a request under 37 CFR 1.42.

BACKGROUND

On 07 April 2006, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee and declaration of the inventors, identifying Maria Devant, as the legal representative of deceased inventor Ralf Devant.

DISCUSSION

37 CFR § 1.42 requires that in the case of the death of the inventor, the legal representative of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent.

37 CFR 1.497(a)(3) requires that the declaration identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(b)(2) requires the declaration to state the relationship of the person (under 37 CFR 1.42) making the declaration for a deceased inventor. 37 CFR 1.497(b)(2) further states that, if the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration must state that the person is a legal representative and indicate the citizenship, residency and mailing address of the legal representative. The declaration must also state the citizenship, residency and last mailing address of the deceased inventor to comply with 37 CFR 1.497(a)(3).

Although the declaration identifies Maria Devant as the legal representative of the estate of deceased inventor Ralf Devant, the declaration is defective because it does not state the country of citizenship, former residency and mailing address for *both* the deceased inventor and the legal representative, to meet the requirements for compliance with 37 CFR 1.497.

What is required is a declaration executed by Maria Devant, which identifies her as legal representative for deceased inventor Ralf Devant. The declaration must provide Maria Devant's citizenship, residency and mailing address and identify Ralf Devant as the deceased inventor, providing his citizenship, former residency and mailing address on the declaration.

Accordingly, it is inappropriate, at this time, to accord the application status under 37 CFR 1.42.

CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **DISMISSED**
WITHOUT PREJUDICE.

Applicant is required to correct the above-noted defects including the furnishing of a oath/declaration in compliance with 37 CFR 1.42 and 1.497 within TWO (2) MONTHS from the mail date of this Decision.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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